

Electronically Filed: 11/14/2023 11:19 AM



STATE OF MAINE  
PENOBSCOT, ss.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO.: PENSC-CIV-2023-00158

SHARON A. WHEATON, AND MICHAEL )  
P. WHEATON, in their Capacity as Personal )  
Representatives of the Estate of TYLER N. )  
WHEATON, of Hampden, Maine, )

Plaintiffs, )

v. )

T.Y. LIN INTERNATIONAL, a California )  
Corporation with a place of business in )  
Falmouth, County of Cumberland and State of )  
Maine, )

Defendant )

**COMPLAINT AND DEMAND FOR  
TRIAL BY JURY**

NOW COMES the Plaintiffs, Sharon A. Wheaton and Michael P. Wheaton, in their capacity as Personal Representatives of the Estate of Tyler N. Wheaton, through undersigned counsel, and hereby complain against Defendant T.Y. Lin ("T.Y. Lin") International as follows:

**PARTIES**

1. Plaintiff Sharon A. Wheaton is a resident of Hampden, County of Penobscot, State of Maine.
2. Plaintiff Michael P. Wheaton is a resident of Hampden, County of Penobscot, State of Maine.
3. Defendant T.Y. Lin International is a California corporation with headquarters in San Francisco, California and a place of business in Falmouth, Maine.

4. Defendant T.Y. Lin is a design professional who designs and engineers major public work projects throughout the world, including roads, bridges and transportation projects.

#### **JURISDICTION AND VENUE**

5. The Court has subject matter jurisdiction over this matter by virtue of 4 M.R.S.A. § 105.

6. Venue is proper in Penobscot by virtue of 14 M.R.S.A. § 501 insofar as Plaintiffs are residents of Penobscot County and insofar as the Plaintiff's claim arises out of events that occurred in Penobscot County.

#### **FACTUAL BACKGROUND**

7. This civil action arises out of a motor vehicle accident that occurred on Route 1A in Hampden, Maine on the evening of November 18, 2021, that resulted in the death by drowning of Tyler N. Wheaton.

8. Plaintiffs Sharon A. Wheaton and Michael P. Wheaton have been duly appointed as the Personal Representatives of the Estate of Tyler N. Wheaton by Order of the Penobscot County Probate Court dated January 21, 2022.

9. Tyler N. Wheaton was a passenger in the vehicle operated by Christian Broberg on the evening of November 18, 2021, and did not at any time operate or control the Broberg motor vehicle.

10. On the evening of November 18, 2021 at approximately 9:45 p.m. Christian Broberg was proceeded south on Route 1A through Hampden, Maine in order

to return Tyler Wheaton to his home on the way to Broberg's home in Winterport, Maine.

11. As the Broberg motor vehicle approached the intersection of Route 1A with Coldbrook Road, a vehicle operated by Laurie N. Brissette pulled out of the Coldbrook Road and started to negotiate a left hand, north bound onto Route 1A.

12. There was an impact between the Broberg motor vehicle and the Brissette motor vehicle.

13. As a result of the impact with the Brissette vehicle on Route 1A, the Broberg motor vehicle to veer out of control, striking a guard rail, breaking through the guardrail and then plunging into the Souadabscook Stream resulting in the death by drowning of Tyler N. Wheaton.

14. The guardrail had recently been installed by the Maine Department of Transportation as part of a major public works project on Route 1A in Hampden, Maine.

15. The project, including the guardrail involved in the accident of November 18, 2021, was designed and engineered by Defendant T.Y. Lin International pursuant to a contract between T.Y. Lin International and the State of Maine.

#### **NEGLIGENCE OF T.Y. LIN INTERNATIONAL**

16. The fatal motor vehicle accident of November 18, 2021 in Hampden, Maine that resulted in the death by drowning of Tyler Wheaton was caused by the professional negligence of Defendant T.Y. Lin's with respect to the design and engineering of the guardrail at the corner of the intersection of Route 1A and the Dudley Road in Hampden, Maine.

17. More particularly, the guardrail at the intersection of Route 1A and the Dudley Road adjacent to the Route 1A Bridge and Souadabscook Stream, was not designed to withstand impacts from southbound traffic on Route 1A in order to safely prevent vehicles from breaking through the guardrail and plunging into the stream after impact.

18. In designing the above-referenced guardrail, an identifiable length of guardrail from the bridge to the Dudley Road/Route 1A intersection was required in order to protect and safeguard vehicles leaving the highway.

19. In designing the guardrail, Defendant T.Y. Lin failed to specify the correct length and type of guardrail based upon existing and anticipated conditions.

20. Defendant T.Y. Lin's design failed to specify the correct length and type of guardrail leading from the bridge over Souadabscook Stream and continuing along the radius of the intersection of Dudley Street and Route 1A, on the easterly side of Route 1A.

21. The guardrail selected by Defendant T.Y. Lin was not the proper guardrail to be used along the short radius created by Dudley Street, so close to the bridge, and was a breach of the standard of care applicable to design professionals.

22. The guardrail system at the intersection of Dudley Road and Route 1A did not anticipate southbound vehicles leaving the road, was not crashworthy and did not incorporate features that mitigated the potential for death or serious injury, all of which constituted a breach of the standard of care applicable to design professionals.

23. Defendant T.Y. Lin breached the standard of care for design professionals with respect to the design and engineering of the guardrail involved in the

motor vehicle accident of March 18, 2021 at the corner of Route 1A and the Dudley Road in Hampden, Maine.

24. Had the guardrail been adequately and professionally designed by Defendant T.Y. Lin in accordance with the standard of care, the Broberg vehicle would not have penetrated the guardrail, the Broberg vehicle would not have plunged into the Souadabscook Stream and Plaintiffs' decedent, Tyler Wheaton would not have suffered death by drowning.

25. As a result of the negligence of Defendant T.Y. Lin, the above-referenced guardrail failed on November 18, 2021 when impacted by the southbound Broberg vehicle, causing the vehicle to plunge into the Souadabscook Stream, resulting in the death by drowning of Tyler Wheaton, the passenger in Broberg's vehicle, as well as Christian Broberg.

WHEREFORE, Plaintiffs, as the Personal Representatives of the Estate of Tyler Wheaton seek an award of compensatory damages, in accordance with the Maine Wrongful Death Statute 18-C M.R.S.A. § 2-807, together with costs, interests and disbursements and such other and further relief as the Court deems just and equitable.

DATED at Portland, Maine this 13<sup>th</sup> day of November, 2023.

*/s/ Carl D. McCue*

Carl D. McCue, Esq., Bar No. 2198  
Attorney for Plaintiffs  
McCue Law Office  
40 Western Avenue  
Hampden, ME 04444  
(207) 261-0745

*/s/ Jeffrey T. Edwards*

---

Jeffrey T. Edwards, Esq., Bar No. 0679  
Attorney for Plaintiffs  
Preti Flaherty Beliveau & Pachios  
P.O. Box 9546/One City Center  
Portland, ME 04112  
(207) 791-3000